

REMARKS

This is responsive to the Office Action mailed February 9, 2005.

Claims 1, 2, 4, 5, 7, 9, 10, 15, 21, 52, 54 and 65-76 were previously pending in this application. By this amendment, Applicant is canceling claims 9, 10 and 67-70 without prejudice or disclaimer. Claims 1, 4, 71 and 72 have been amended. New claims 77-90 have been added, which are a set of claim specifically pertaining to peptides containing SEQ ID NO:62. As a result, claims 1, 2, 4, 5, 7, 15, 21, 52, 54 and 65, 66, 71, and 72-90 are now pending for examination. No new matter has been added.

Rejections Under 35 U.S.C. § 112, First Paragraph**Written Description**

The Examiner rejected claims 1, 4, 5, 7, 9, 10, 15, 21, 52, 54 and 65-78 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Applicant respectfully requests reconsideration.

Applicant has amended the claims to remove recitations of functional variants.

Accordingly, Applicant believes that the rejection is moot, and respectfully requests its withdrawal.

Enablement

The Examiner rejected claims 1, 4, 5, 7, 10, 15, 21, 52, 54 and 65-76 under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for an isolated EphA3 HLA class II binding peptide, wherein said peptide consists of a fragment of the amino acid sequence of SEQ ID NO: 3, 5 or 7, and wherein said fragment comprises SEQ ID NOs: 51, 52, 53, 54 and 62, allegedly does not reasonably provide enablement for an isolated EphA3 HLA class II

binding peptide that consists of a functional variant of a fragment of SEQ ID NOs: 3, 5 or 7 or a functional variant of SEQ ID NOs: 51, 52, 53, 54 or 62 comprising an amino acid addition, deletion or substitution. Applicant respectfully requests reconsideration.

Applicant has amended the claims in two ways to overcome this rejection. First, recitations of functional variants have been removed from the claims. Second, a set of claim specifically pertaining to peptides containing SEQ ID NO:62 has been added. Thus, claims to peptides containing SEQ ID NO:62 have been split from claims directed to fragments of SEQ ID NO:3, 5 or 7. This has been done because SEQ ID NO:62 is not a fragment of these longer polypeptide molecules. SEQ ID NO:62 is a peptide that varies in amino acid sequence from wild-type EphA3 at two positions, yet it has been shown to be recognized by CTL when presented by HLA class II molecules (see Example 7).

Accordingly, Applicant believes that the rejection is moot, and respectfully requests its withdrawal.

Rejections Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claim 4 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The Examiner indicated that claim 4 contained an improper Markush group and that the claim lacked antecedent basis. Applicant respectfully requests reconsideration.

Applicant has amended claim to clarify the claim language. First, the Markush language has been corrected. Second, the recitation of SEQ ID NO:62 has been removed. The remaining sequences (SEQ ID NOs:51 and 54) are, contrary to the Examiner's assertions, fragments of SEQ ID NO:3, 5 or 7. SEQ ID NO:51 is amino acids 356-371 of SEQ ID NO:3, 5 and 7. SEQ ID NO:54 is amino acids 356-367 of SEQ ID NO:3, 5 and 7.

Reconsideration and withdrawal of the rejection is respectfully requested.

Conclusion

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,



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